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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,086	02/15/2002	Taro Suga	02090/TL	3499
1933	7590	09/21/2004	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC			VERBITSKY, GAIL KAPLAN	
767 THIRD AVENUE			ART UNIT	PAPER NUMBER
25TH FLOOR				2859
NEW YORK, NY 10017-2023				

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/077,086	SUGA, TARO	
	Examiner	Art Unit	
	Gail Verbitsky	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 June 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: the specification does not describe a single wedge shaped casing, as stated in claim 1. Appropriate correction is required.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "wedge shaped casing" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered, or appropriate numerals should be provided for all elements (e.g., wedge shaped casing) claimed by applicant labels. The drawings are objected to under 37 CFR 1.83(a).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 1 is finally rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In this case, the single wedge shaped casing has not been described in the specification.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Mears et al. (U.S. 5752674) [hereinafter Mears].

Mears discloses in Figs. 3-9 a device/ total temperature probe comprising a blade-shaped casing/shield 112/ 114 for housing the total temperature sensor 100 for sensing a temperature of an airflow over blade surfaces of the casing. Mears attempts to solve a problem of a conventional probe when the ice breaks off the probe and travels downstream the compressor (Fig. 2 and col. 2, lines 68-65). Mears places a plurality of separate dissociated/ single (col. 3, line 7) wedge shaped structures (casing). Mears states that the geometry/ shape/ angle of inclination of the casing is such that allows less ice to buildup. Mears states that when the casing 112/ 114 total inclined angle (of both surfaces of the casing with respect to the direction of the line of the airflow) is approximately 15 degrees, the aerodynamical force is acting so as to release (detach) the ice before the ice mass becomes too large (entire col. 4) and thus, dangerous. As shown in Fig. 4, the device has an angle of inclination of a leading edge with respect to the direction of the mass airflow. The geometry of the casing, inherently, includes the angle of inclination of the leading edge with respect to the mass airflow and

the width of the leading edge. Mears states that the geometry allows less ice buildup/deposition. Thus, it is inherent, that the angle of inclination of the leading edge with respect to the air mass flow, and the width of the leading edge, as a part of the geometry of the casing, will allow less ice buildup/ deposition.

For claim 2: since the total inclined angle of Mears, as described above, is about 15 degrees, than an angle of inclination of one blade surface with respect to the direction of the line of the airflow is about 7.5 degrees, which is less than 9 degrees, as claimed by applicant.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3-5 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Mears.

Mears discloses the device as stated above in paragraph 6.

Mears does not explicitly teach the limitations of claim 5.

With respect to claims 5-8: the particular angle of inclination of the leading edge, i.e., less than 60⁰, absent any criticality, is only considered to be the "optimum" value of the angle of inclination disclosed by Mears that a person having ordinary skill in the art would have been able to determine using routine experimentation based, among other

things, on the desired shape of the device, etc. *In re Boesch*, 205 USPQ 215 (CCPA 1980). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the angle of inclination of the surface of the device disclosed by Mears, less than 60 degrees, so as to make the device as compact as possible, so as to minimize the manufacturing costs.

Mears does not explicitly teach the limitations of claims 3-4.

With respect to claims 3-4: the particular width (size) of the leading edge section, i.e., less than or equal 1 mm, absent any criticality, is only considered to be the "optimum" value of the width of the leading edge section disclosed by Mears that a person having ordinary skill in the art would have been able to determine using routine experimentation based, among other things, on the desired shape and size of the device, etc. *In re Boesch*, 205 USPQ 215 (CCPA 1980). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the width of the leading edge of the device disclosed by Mears, less than 1 mm, so as to make the device as compact as possible, so as to minimize the manufacturing costs.

Response to Arguments

9. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection necessitated by the present amendment.

Applicant states that Mears does not disclose a single wedge shaped casing, as stated in the emended claim 1.

This argument is not persuasive because, Mears discloses a plurality of single wedge shaped casings, as shown in Figs. 3 and 6.

Applicant does not describe in the claims or specification or drawings what single wedge shaped casing means. Also, in the specification, Applicant does not limit the invention to using a single wedge shaped casing. In the specification, Applicant refers to the drawings; however, the sole drawings do not support said limitation. Since, the limitation is not in the specification, the fact that the drawings show only one wedge shaped structure does not exclude having a plurality of wedge shaped structures. Applicant does not explicitly teach or describe that the instant invention has only one single wedge shaped casing.

Mears teaches not a one single wedge shaped casing but a plurality of wedge shaped casings each of them is a single wedge casing.

Also, in response to Applicant' s argument that Mears includes not one but a plurality of single wedge shaped casings (additional structures) not required by Applicant's invention, it must be noted that Mears discloses the invention as claimed by Applicant. The fact that it discloses additional structures not claimed is irrelevant.

Also, since it is not described in the claims or specification, not explained in the drawings, it is not clear what Applicant means, a casing with a single wedge, or a single casing shaped as a wedge.

Although, in the arguments, Applicant refers to the drawings, the drawings, according to the terminology used in the specification, do not show wedge shaped casing, they rather show a housing section 22 and leading edge section 24.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 and not mentioned above disclose related devices and methods.

Any inquiry concerning this communication should be directed to the Examiner Verbitsky who can be reached at (571) 272-2253 Monday through Friday 8:00 to 4:00 ET.

GKV

Gail Verbitsky
Primary Patent Examiner, TC 2800



September 15, 2004